



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R09-OAR-2022-0106; FRL- 9527-01-R9]

Air Plan Approval; Nevada; Clark County Department of Environment and Sustainability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the Clark County Department of Environment and Sustainability (DES) portion of the Nevada State Implementation Plan (SIP). These revisions concern the title change of the Clark County Department of Air Quality to the Department of Environment and Sustainability. We are proposing to approve this title change. The “department of air quality” was deleted in the air quality regulations and replaced with “department.” We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by [**Insert date 30 days after date of publication in the *Federal Register***].

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R09-OAR-2022-0106 at <https://www.regulations.gov>. For comments submitted at Regulations.gov, follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional

submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>. If you need assistance in a language other than English or if you are a person with disabilities who needs a reasonable accommodation at no cost to you, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Christine Vineyard, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105. By phone: (415) 947-4125 or by email at vineyard.christine@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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I. The State’s Submittal

- A. *What rules did the State submit?*

Table 1 lists the rules addressed by this proposal with the dates that they were adopted by

Clark County DES and submitted by the Nevada Division of Environmental Protection (NDEP).

TABLE 1 - SUBMITTED RULES

Local Agency	Rule No.	Rule Title	Amended	Submitted
DES	Rule 2	Procedures for Adoption and Revision of Regulations and for Inclusion of those Regulations in the State Implementation Plan	1/21/20	3/13/20
DES	Rule 33	Chlorine in Chemical Processes	1/21/20	3/13/20
DES	Rule 41	Fugitive Dust	1/21/20	3/13/20
DES	Rule 53	Oxygenated Gasoline Program	1/21/20	3/13/20
DES	Rule 90	Fugitive Dust from Open Areas and Vacant Lots	1/21/20 1/21/20	3/13/20 3/13/20
DES	Rule 93	Fugitive Dust from Paved Roads and Street Sweeping Equipment	1/21/20	3/13/20
DES	Rule 94	Permitting and Dust Control for Construction Activities		

On September 13, 2020, the submitted rules in Table 1 were deemed to be complete by operation of law to meet the completeness criteria in 40 CFR Part 51 Appendix V, which must be met before formal EPA review.

B. *Are there other versions of these rules?*

We approved an earlier version of Rule 2 into the SIP on August 27, 1981 (46 FR 43141). The Clark County DES adopted revisions to the SIP-approved version on January 21, 2020, and NDEP submitted it to us on March 13, 2020.

We approved an earlier version of Rule 33 into the SIP on September 7, 2004 (69 FR 54006). The Clark County DES adopted a revision to the SIP-approved version on January 21, 2020, and NDEP submitted it to us on March 13, 2020.

We approved an earlier version of Rule 41 into the SIP on October 6, 2014 (79 FR 60078). The Clark County DES adopted a revision to the SIP-approved version on January 21, 2020, and NDEP submitted it to us on March 13, 2020.

We approved an earlier version of Rule 53 into the SIP on September 21, 2004 (69 FR

56351). The Clark County DES adopted a revision to the SIP-approved version on January 21, 2020, and NDEP submitted it to us on March 13, 2020.

We approved an earlier version of Rule 90 into the SIP on October 6, 2014 (79 FR 60078). The Clark County DES adopted a revision to the SIP-approved version on January 21, 2020, and NDEP submitted it to us on March 13, 2020.

We approved an earlier version of Rule 93 into the SIP on October 6, 2014 (79 FR 60078). The Clark County DES adopted a revision to the SIP-approved version on January 21, 2020, and NDEP submitted it to us on March 13, 2020.

We approved an earlier version of Rule 94 into the SIP on October 30, 2006 (71 FR 63250). The Clark County DES adopted a revision to the SIP-approved version on January 21, 2020, and NDEP submitted it to us on March 13, 2020.

While we can act on only the most recently submitted version, we have reviewed materials provided with previous submittals.

C. *What is the purpose of the submitted rule revisions?*

The purpose of these submitted rule revisions is to delete “the department of air quality” everywhere it appears in the submitted rules and replacing it with “department” and to update formatting.

The EPA’s technical support document (TSD) and submitted staff report have more information about these rules.

II. The EPA’s Evaluation and Action

A. *How is the EPA evaluating the rules?*

Rules in the SIP must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Guidance and policy documents that we used to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. "State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990," 57 FR 13498 (April 16, 1992); 57 FR 18070 (April 28, 1992).
2. "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," EPA, May 25, 1988 (the Bluebook, revised January 11, 1990).
3. "Guidance Document for Correcting Common VOC & Other Rule Deficiencies," EPA Region 9, August 21, 2001 (the Little Bluebook).

B. *Do the rules meet the evaluation criteria?*

These rules are consistent with CAA requirements and relevant guidance regarding enforceability. The TSD has more information on our evaluation.

C. *Public comment and proposed action*

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rules because they fulfill all relevant requirements. We will accept comments from the public on this proposal until **[Insert date 30 days after date of publication in the *Federal Register*]**. If we take final action to approve the submitted rules, our final action will incorporate these rules into the federally enforceable SIP.

III. Incorporation by Reference

In this proposed rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the Clark County DES rules described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials available through <https://www.regulations.gov> and at the EPA Region IX Office (please contact the person identified in the "**FOR FURTHER INFORMATION CONTACT**" section of this preamble for

more information).

IV. Statutory and Executive Order Reviews.

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) ;
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) ;
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) ;
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999) ;
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997) ;
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001) ;

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, and legally permissible methods under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where the EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the proposed rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Volatile organic compounds.

AUTHORITY: 42 U.S.C. 7401 *et seq.*

Dated: **February 15, 2022.**

Martha Guzman Aceves,
Regional Administrator,
Region IX.

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